

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks. Additional limitations not found in U.S. Patent No. 5,970,478 to Walker *et al.*, or in any other reference made of record or otherwise disclosed in this case, have been added to each independent claim, thereby overcoming the rejections under 35 USC 102.

The limitation “wherein the baseline offer includes at least one benefit from an entity other than the account issuer” has been added to independent claims 1 and 18. This limitation finds support, for example, in the specification at P10 L12-19 (benefits and features from third parties), and P18 L16 *et seq.* (EXTERNAL SERVICES OR DISCOUNTS).

The limitation “a checker module for determining worthiness parameters in real time in conjunction with a credit rating entity external to the computer system” has been added to independent claim 14. This limitation finds support, for example, in the specification at P09 L05-09 (access to an external credit reporting service via a real time network), and P09 L17 – P10 L04 (immediate issuance of a denial letter if the credit score return from the external credit service is too low).

Regarding Official Notice taken with regard to Claims 12 and 13, such Official Notice should be withdrawn because it is improper, e.g.,:

§ the notice taken is not supported by citation to some reference work recognized as a standard in the pertinent art; and

§ a clear and unmistakable technical line of reasoning underlying the decision to take such notice is not provided.

Assertions of specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. If official notice is taken, the technical line of reasoning underlying a decision to take such notice must be clear and unmistakable.

First, the Office Action (OA) does not cite a prior art reference. Finally, no technical line of reasoning underlying the decision to take such notice is presented beyond “it would have been obvious.”

For these reasons, the undersigned requests that each instance of official notice be withdrawn. The remarks to this point are a challenge to the implicit finding that official notice is proper in this case. The remarks are responsive in that they distinctly and specifically point out the error in taking official notice in this fashion – as required by 37 CFR 1.111(b). While the MPEP asserts:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well -known in the art. See 37 CFR 1.111(b).

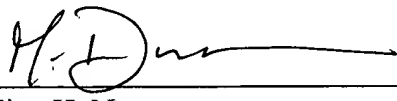
such a traverse is required only where official notice was properly taken. Otherwise, an improper official notice, e.g., mere assertion, would operate as an inappropriate burden-shifting tactic.

Conclusion

For at least all of the above reasons, it is respectfully submitted that the present invention, as claimed, is neither disclosed nor suggested by the references of record, and the claims now pending patentably distinguish the present invention from the references of record. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited upon the filing of a continuation.

Respectfully submitted,

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